

**CITY OF LAVON, TEXAS
ORDINANCE NO. 2022-10-06**

Amending Chapter 2, Article 2.06, Division 3 of the Code of Ordinances – Board of Adjustments

AN ORDINANCE OF THE CITY OF LAVON, TEXAS, ADOPTING RULES AND REGULATIONS FOR THE ADMINISTRATION OF THE CITY'S BOARD OF ADJUSTMENT BY AMENDING THE CITY'S CODE OF ORDINANCES CHAPTER 2, "ADMINISTRATION AND PERSONNEL", ARTICLE 2.06, "BOARDS AND COMMISSIONS," DIVISION 3 "BOARD OF ADJUSTMENTS", BY AMENDING SECTION 2.06.061 AND ADDING SECTION 2.06.062; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; PROVIDING SEVERABILITY, REPEALER AND SAVINGS CLAUSES; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council ("City Council") of the City of Lavon ("City") has authority pursuant to Texas Local Government Code 211.008, to provide for the appointment of a board of adjustment; and

WHEREAS, on December 6, 2022, the City Council formally adopted the City's Home Rule Charter ("Charter"); and

WHEREAS, due to the City's adoption of a Home Rule Charter, the City is undertaking a series of revisions to the City's Code of Ordinances for revisions consistent with the Charter, and state law for a Home Rule municipality; and

WHEREAS, the City Council desires to remove itself as members of the board of adjustment and provide for the appointment of new members by revising the City's Code of Ordinances regarding the same; and

WHEREAS, the City Council finds that the adoption of this Ordinance is in the best interest of the City and that the regulations provided herein will promote and provide for the health, safety, and welfare of the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS:

SECTION 1. RECITALS

The City Council hereby finds that the statements set forth in the recitals of this

Ordinance are true and correct, and the City Council hereby incorporates such recitals as part of this Ordinance.

SECTION 2. REMOVAL OF CITY COUNCIL FROM BOARD OF ADJUSTMENT.

In accordance with the City's Charter and state law, the City Council hereby removes itself entirely from the membership the City's board of adjustment and shall henceforth appoint members to the board of adjustment in accordance with the amendments to the City's Code of Ordinances described herein.

SECTION 3. AMENDMENTS

Chapter 2, "Administration and Personnel," Article 2.06, "Boards and Commissions," Division 3 "Board of Adjustments" of the City's Code of Ordinances is hereby amended by amending Section 2.06.061 and adding Section 2.06.062 to read entirely as follows:

"DIVISION 3 Board of Adjustment

Sec. 2.06.061 Designation of board of adjustment

- (a) The board of adjustment (for purposes of this Division, the "board") shall be established and operate in accordance with Chapter 211 of the Texas Local Government Code, as amended, and the zoning ordinance of the City.
- (b) The board, by majority vote, may adopt rules, regulations, and bylaws for its own government in accordance with Texas Local Government Code Section 211.008, as amended, and applicable city ordinances. All changes to the rules and regulations shall be implemented in a fair and consistent manner. All such rules and regulations shall be reduced to writing and made available for public inspection upon request.
- (c) The city secretary shall serve as the secretary of the board. The city secretary shall prepare and disseminate appropriate rules and regulations regarding the intake, handling, and process for any variance or special exception request or other hearing to be presented to the board.
- (d) The board shall consist of five (5) members and two (2) alternate members residing within the city, appointed by the city council. Each person nominated by the city council to be a board member must be approved by a simple majority vote of the city council before being appointed as a member of the board. All appointees to the board shall serve as a member for a term of office of two (2) years, or until their successors are duly appointed and qualified, however, expiration of terms shall be staggered so that an overlapping of terms occurs (e.g., in any two-year period, the terms of at least two (2) regular members and at least one (1) alternate member shall expire during the first year, and the terms of the remaining members shall expire in the second year). Each member of the board, including alternates, serves at the pleasure of the city council and may be subject to removal by the city council.. Vacancies shall be filled for the unexpired term of any member, whose place becomes vacant for any cause, in the same manner as the original appointment was made.
- (e) The board shall elect a chairperson and vice-chairperson from among its membership, and

- each officer shall hold office until replaced by a simple majority vote of the full board.
- (f) The authority, processes, and procedures of the board shall be in accordance with the provisions of the city's zoning ordinance.

Sec. 2.06.062 Meetings

- (a) Meetings of the board shall be held at the call of the chairperson or secretary and at such other times as the board may determine. All meetings of the board shall be open to the public and in compliance with the Texas Open Meetings Act, as amended.
- (b) Each case before the board must be heard by at least seventy-five percent (75%) of the members."

SECTION 4. Effective Date

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION 5. Severability

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

SECTION 6. Repealer and Savings

This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of such ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance; whether such ordinances are codified or uncoded, and all other provisions of the ordinances of the City, codified or uncoded, not in conflict with the provisions of this Ordinance, shall remain in full force and effect. Any repeal occurring due to this provision shall not abate any pending prosecution or lawsuit and/or prevent any prosecution or lawsuit from being commenced for any violation occurring before the effective date of this Ordinance.

SECTION 7. Open Meeting

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code and as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED by the City Council of the City of Lavon, Texas this 20th day of December 2022.

Vicki Sanson
Vicki Sanson, Mayor

ATTEST:

Rae Norton
Rae Norton, City Secretary

